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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,457	12/31/2001	Michael T. Morman	KCC 4845 (KC# 16,984)	4817

7590 10/16/2006

Senniger, Powers, Leavitt & Roedel  
One Metropolitan Square, 16th Floor  
St. Louis, MO 63102

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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20061003

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see attached communication

Karin M. Reichle  
Primary Examiner  
Art Unit: 3761

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/037,457

Applicant(s)

MORMAN ET AL.

Examiner

Karin M. Reichle

Art Unit

3761

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 13 July 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation sheet.

*K. M. Reichle*

Karin M. Reichle  
Primary Examiner  
Art Unit: 3761

The rejections being appealed and the claims grouped together therein are unclear. On page 2, last paragraph of Section II, it is set forth that the rejections of 45-46, 50-68, 76-85 and 88-95 are being appealed but that the rejection of claim 55 under 35 USC 103 is not being appealed. Therefore, it is not clear what is being appealed with regard to claim 55? Is the rejection of claim 55 under 35 USC 112 being appealed or not? If so, a clearer statement would be that the rejections of claims 45-46, 50-54, 56-68, 76-85 and 88-95 are being appealed as well as the rejection of claim 55 under 35 USC 112. In the Arguments section VII, Ground A, it is unclear whether Appellant is grouping all the claims together or not since there are no subheadings directed to different groups of claims but yet Appellant argues various groups of claims, e.g. 66, 76-85, 93 and 94 as a group. Likewise, in section B it is unclear whether Appellant is arguing claims 66-68, 76-85 and 93-94 as a group, claim 66 alone and the remainder of the claims as a group, or claims 66-68 and 76-85 as a group, note the last paragraph of this section, and claims 93-94 as another group. In the latter two cases, arguments directed to remaining claims and claims 93-94 should appear under a separate heading. Note MPEP 1205.02 with respect to 37 CFR 1.121(c)(1)(vii) and grouping of claims. Similarly, in Section C, it is unclear whether claims 91-92 are being argued with claim 95, see last paragraph of arguments under the subtitle "Claim 95" and then page 19, and whether claim 89 is being argued with claim 88, see last paragraph under subtitle "Claim 88" and then page 18. In subsection D it is also unclear whether claim 89 is being argued as a group with claim 88 or alone.